

# Casework Survey within BirdLife

## on pending infringement procedures 2023

**Table 1: pending infringement procedures**

INFR(20xx)xxxx, country (in alphabetical order)	Timeline, activity According to EC data base	Timespan between Letter of Formal Notice and Reasoned opinion (of each the first, if additional were issued)	Total time case pending From Letter of Formal Notice until Date of Survey, September 2023
<b>INFR(2008)4461, Bulgaria</b>	Complaint submitted in May 2009, 1 <sup>st</sup> Letter of Formal Notice issued in October 2009, An additional one in March 2010, A 2 <sup>nd</sup> additional one in July 2018, Reasoned Opinion issued in December 2020	<b>130 months</b>	14 years
<b>INFR(2020)2204, Croatia</b>	Letter of Formal Notice issued in May 2020, Reasoned Opinion issued in January 2023	32 months	<b>3 years</b>
<b>INFR(2022)2193, Croatia</b>	Letter of Formal Notice issued in February 2023	-	<b>0,5 years</b>
<b>INFR(2022)2177, Croatia</b>	Letter of Formal Notice issued in February 2023	-	<b>0,5 years</b>
<b>INFR(2019)2303, Cyprus</b>	Letter of Formal Notice issued in November 2019	-	<b>4 years</b>
<b>INFR(2012)4139, Finland</b>	Complaint submitted in March 2011, (additional) Letter of Formal Notice issued in November 2012, Reasoned opinion in April 2015	29 months	<b>11 years</b>
<b>INFR(2019)2144, France</b>	Letter of Formal Notice July 2019, Reasoned Opinion in December 2020	17 months	<b>4 years</b>
<b>INFR(2019)2151, France</b>	Letter of Formal Notice July 2019, Reasoned Opinion in July 2020, an additional one in January 2023	12 months	<b>4 years</b>
<b>INFR(2020)4036, France</b>	Letter of Formal Notice issued in July 2020, Reasoned Opinion in July 2022	24 months	<b>3 years</b>
<b>INFR(2014)4073, Greece</b>	Letter of Fromal Notice issued in July 2014, Reasoned Opinion in February 2023	<b>103 months</b>	<b>9 years</b>
<b>INFR(2010)2161, Ireland</b>	Letter of Formal Notice issued in January 2011, Reasoned Opinion June 2011, An additional one in September 2022	6 months	12 years
<b>INFR(2015)2163, Italy</b>	Letter of Formal Notice issued in October 2015, an additional one in January 2021	-	<b>8 years</b>

<b>INFR(2021)2028, Italy</b>	Letter of Formal Notice issued in June 2021	-	<b>2 years</b>
<b>INFR(2019)4058, Slovenia (until RO handled under INFR(2017)2106)</b>	Letter of Formal Notice issued in October 2017, Reasoned Opinion in July 2019	21 months	<b>6 years</b>
<b>14 infringement procedures in total</b>	Of which only 9 prompted a LFN and a RO already	374 months in total of 9 cases equals <b>42 months averagely equals 3,5 years</b>	<b>81 years in total of all 14 cases equals 5,8 years averagely</b>

**Table 2 : duration of complaints pending already**

Complaint No.	EU Pilot No.	Date of Submission	Time since submission	<b>Average time span since submission of complaint: 5,9 years</b>
CHAP(2016)3475		08.11.2016	7 years	
CHAP(2019)02496		20.03.2019	4,5 years	
	EUP(2014)6730	15.03.2013	10,5 years	
CHAP(2022)01539	EUP(2023)10491	25.05.2022	1,2 years	
	EUP(2020)9769	01.08.2017	6,3 years	

### Explanation

In September 2023 BirdLife Europe conducted a survey within its partners that found 14 pending infringement cases which the partners had initiated with a complaint or to which they had contributed (table 1). They also reported 5 complaints to the EU Commission which have not yet led to an infringement procedure (table 2).

- The **pending infringements already last on average**, even though many have been submitted only after 2020, **almost six years**.

Within these cases there were 9 which already prompted both a Letter of Formal Notice, as the opening step of an infringement procedure, and a Reasoned Opinion, which should be the last step, after which, if the Member State doesn't comply with it, the European Commission should refer the case to the EU Court of Justice.

- In these 9 cases **an average time of three and a half years passed between the Letter of Formal Notice and the Reasoned Opinion**.

This duration does not even include the amount of time which usually passes between the submission of a complaint and its handling as an infringement procedure – time during which the environmental harm in question usually continues.

- The few **pending complaints** that data could be provided for were on average already **submitted roundabout 6 years ago** but were still waiting to prompt an infringement procedure.

**These durations undermine the enforcement of EU law dramatically and for their time being suspend the rule of law. In cases which regard unrecoverable harms and damages the violation of law will persist.**